

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL MALOTT,

Plaintiff,

Case No. 19-cv-12633

v.

U.S. DISTRICT COURT JUDGE  
GERSHWIN A. DRAIN

JODI D'ANGELO, ET. AL.,

Defendants.

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**OPINION AND ORDER GRANTING THE MOTION FOR VOLUNTARY  
DISMISSAL [#16]**

Plaintiff Michael Malott, presently confined at the Macomb Correctional Facility in New Haven, Michigan, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff has now filed a motion for voluntary dismissal pursuant to Federal Rules of Civil Procedure 41(a). For the reasons stated below, the motion for voluntary dismissal is granted and the complaint is **DISMISSED WITHOUT PREJUDICE**.

**I. DISCUSSION**

Federal Rule of Civil Procedure 41 provides that a plaintiff may dismiss an action without order of court by filing a notice of dismissal before service by the adverse party of an answer or motion for summary judgment. Fed. R. Civ. P. 41(a); *see also Doran v. McGinnis*, 158 F.R.D. 383, 389 (E.D. Mich. 1994). Here, Plaintiff

is entitled to a voluntary dismissal of his civil rights complaint, as Defendants have not filed an answer to the complaint, a motion to dismiss, or a motion for summary judgment. *Id.*

Based upon the foregoing, the motion for voluntary dismissal is GRANTED and the complaint is DISMISSED WITHOUT PREJUDICE.

**IT IS SO ORDERED.**

Dated: October 31, 2019

s/Gershwin A. Drain  
HON. GERSHWIN A. DRAIN  
United States District Court Judge

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, October 31, 2019, by electronic and/or ordinary mail.

s/Teresa McGovern  
Case Manager